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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,915

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EXAMINER

MITCHELL, JASON D

ART UNIT

PAPER NUMBER

2193

NOTIFICATION DATE

DELIVERY MODE

05/15/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/671,915	Applicant(s) PATERNOSTRO ET AL.	
	Examiner Jason Mitchell	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to a request for continued examination filed on 2/27/08.
2. Claims 1-20 are pending in this application.

Response to Arguments

3. The papers filed on 2/27/08 have changed neither the claims nor the arguments presented against the rejection. Accordingly, the applicants' arguments are again found to be unpersuasive for the reasons discussed in the final action mailed 8/27/07 and reiterated below.

4. **Applicant's arguments regarding the 102(b) rejection of claims 1, 12 15 and 18 and their respective dependent claims have been fully considered but they are not persuasive.**

5. In the paragraph bridging pp. 6 and 7, the applicants state:

Applicants respectfully submit that the cited portion of Sivakumar does not support Examiner's contention that Sivakumar teaches a system and method that captures the result of a "unit test" and a "hierarchical position" of each unit test within a grouping. As stated in paragraph 5, of Applicants patent application, published on July 8, 2004, a "unit" could refer to any modular aspect of an application. For example, a unit refers to a segment of code, a method in a class, or a function of an application. The term "unit" in the cited portion of Sivakumar does not refer to a unit comprising a modular aspect of an application. Furthermore, the cited portion of Sivakumar does not disclose capturing the "hierarchical position" of each unit test within a grouping.

6. The examiner respectfully disagrees. The description of a "unit" in the parent case to which the applicant appears to refer is found in par. [0003] of that document,

and corresponds to par. [0005] of the instant case in that each disclose that a “unit *may* refer to any modular aspect of an application.” This disclosure does not represent an explicit definition and thus the term “unit” can properly be read broader than the applicant asserts. Additionally, the applicant has not provided any explanation of how Sivakumar’s “test case” is distinguished from the claimed “unit”. Specifically, Sivakumar discloses that his “test case ... verifies a certain function of the software application” (col. 2, lines 58-62) which would appear to explicitly anticipate the asserted “function of an application”.

Additionally, the assertion that “the cited portion ... does not disclose capturing the “hierarchical position” of each unit test with a grouping” amounts to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Further Sivakumar clearly discloses capturing the hierarchical position of the test cases (e.g. col. 4, lines 33-41 “information about the parent test class and child test classes and classes at any level in the hierarchy ... are available”).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-2, 4-6, 12-13, 15-16 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,031,990 to Sivakumar et al. (Sivakumar).**

9. **Regarding Claims 1, 12, 15 and 18:** Sivakumar discloses a method for tracking unit tests of a software application, said method comprising the steps of:

(a) conducting unit tests on a software application, said unit tests ordered under hierarchical groupings (col. 3, lines 8-9 “A test hierarchy”); and

(b) tracking said unit tests so as to capture a result of each of said unit tests and a hierarchical position of each of said unit tests within said hierarchical groupings (col. 2, lines 58-61 “A “test case” ... records the result”).

10. **Regarding Claims 2, 13, 16 and 19:** The rejection of claims 1, 12, 15 and 18 are incorporated respectively; further; Sivakumar discloses the step of:

(c) outputting the hierarchical position of each of said units test in association with the corresponding result (Fig. 4).

11. **Regarding Claim 4:** The rejection of claim 1 is incorporated; further Sivakumar discloses said unit tests are grouped within a test suite, said test suite comprising a highest order grouping of said unit tests (Fig. 1, Root node 10), said test suite grouping containing at least one test case, each test case comprising a sub-grouping of said test suite (Fig. 1, Test Class 12).

12. **Regarding Claim 5:** The rejection of claim 4 is incorporated; further Sivakumar discloses a sub-set of said unit tests is grouped within one test case (Fig. 1, Test Case 14).

13. **Regarding Claim 6:** The rejection of claim 5 is incorporated; further Sivakumar discloses one or more other test cases are grouped within said one test case, each of said other test cases comprising a sub-grouping of said one test case (col. 2, lines 63-67 "A test class is an abstract collection of ... one or more other test classes").

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claims 3, 7-8, 14, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,031,990 to Sivakumar et al. (Sivakumar) in view of US 5,671,351 to Wild et al. (Wild).**

16. **Regarding Claims 3, 14, 17 and 20:** The rejection of claims 1, 13, 16 and 19 are incorporated respectively; further; Sivakumar does not disclose at least one of said unit tests is iteratively conducted multiple times.

17. Wild teaches at least one of said unit tests is iteratively conducted multiple times (col. 5, lines 65-67 “Iteration Count ... specifies the number of times the selected test cases will be executed”), and said method further comprises the step of:

(d) each time one of said unit tests is conducted, associating an iteration ordinal indication with the result (Fig. 9, 9h).

18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sivakumar and Wild to associate an iteration ordinal indication (Wild Fig. 9, 9h) with the result of each unit test (Sivakumar Fig. 1, Test Case 14) because “one test might otherwise interfere with another test or depend on the success or failure of another test” and “Each test in the hierarchy has an execution sequence number associated with it” (Sivakumar col. 3, lines 28-32).

19. **Regarding Claim 7:** The rejection of claim 6 is incorporated further Sivakumar does not disclose at least one of said other test cases is iteratively conducted.

20. Wild teaches at least one of said other test cases is iteratively conducted (col. 5, lines 65-67 “Iteration Count ... specifies the number of times the selected test cases will be executed”).

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sivakumar and Wild to associate an

iteration ordinal indication (Wild Fig. 9, 9h) with the result of each unit test (Sivakumar Fig. 1, Test Case 14) because “one test might otherwise interfere with another test or depend on the success or failure of another test” and “Each test in the hierarchy has an execution sequence number associated with it” (Sivakumar col. 3, lines 28-32)

22. **Regarding Claim 8:** The rejection of claim 3 is incorporated further Sivakumar discloses said associating step further comprises instantiating at least one of a test case class (Fig. 1, Test Class 12) and a test suite class (Fig. 1, Root node 10), said test case class and said test suite class being associated with methods for, in respect of a given unit test, getting a parent of a sub-grouping to which said given unit test belongs (col. 4, lines 33-41 “contextual information such as the hierarchy information ... are available to the test”).

23. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include Wild’s iteration ordinal (Fig. 9, 9h) as part of Sivakumar’s “contextual information” (col. 4, lines 33-41)

24. **Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,031,990 to Sivakumar et al. (Sivakumar) in view of US 5,671,351 to Wild et al. (Wild) in view of the JUnit 3.7 (JUnit).**

25. **Regarding Claim 9:** The rejection of claim 8 is incorporated; further Sivakumar does not disclose, wherein said test case class extends a test case class and said test suite class extends a unit test suite class.

26. JUnit teaches extending a test case class and a test suite class (see e.g. the definition of Class TestSuite “public class MathTest extends TestCase”).

27. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sivakumar-Wild combination with the teachings of JUnit because “JUnit is a simple framework to write repeatable tests” (JUnit 3.7 pg. 1 par. 1)

28. **Regarding Claim 10:** The rejection of claim 9 is incorporated; further Sivakumar discloses said unit tests are conducted by an instantiation of a runner within an instantiation of a framework (col. 1, lines 64-67 “executing a run command of the test case”), said test case class and said test suite class being part of said framework (col. 1, lines 19-23 “a software infrastructure”).

29. **Regarding Claim 11:** The rejection of claim 10 is incorporated; further It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the system taught by the Sivakumar-Wild combination compliant with JUnit because JUnit is a simple framework to write repeatable tests” (JUnit 3.7 pg. 1 par. 1).

Conclusion

30. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Mitchell whose telephone number is (571) 272-3728. The examiner can normally be reached on Monday-Thursday and alternate Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bullock Lewis can be reached on (571) 272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Mitchell/
Jason Mitchell

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193
5/8/07